

USA PATRIOT Act

Summary of Proposed Changes to Conference Report

Judicial Review of Section 215 Non-Disclosure order

- Explicit judicial review of a section 215 non-disclosure order.
 - Recipient may challenge non-disclosure order after one year of receipt.
- Judge may overturn the non-disclosure order if the judge finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person.
- If the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the FBI certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive, unless the judge finds that the certification was made in bad faith.

Naming of Attorney for NSL Recipients

- Removes from the conference report the requirement that a person inform the FBI of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to a NSL order.

Applicability of NSL's to Libraries

- Adds clarification to current law that libraries, when functioning in their traditional roles, including providing Internet access, are NOT subject to section 2709 NSL's.

SAFE Act Sponsors' Civil Liberty Achievements Throughout the PATRIOT Act Reauthorization Process

Draft Conference Report-November 17, 2005

Section 215 Orders

- 1) Requires the government to provide a statement of facts to a FISA judge, and requires the judge to find that the statement of facts show reasonable grounds to believe the items sought are relevant to an investigation.
- 2) Requires the use of minimization procedures to limit and/or prohibit the retention and dissemination of information regarding U.S. persons.
- 3) Establishes explicit right of recipients to consult with an attorney.
- 4) Establishes explicit right to judicial review of the order.
- 5) Requires approval of a senior FBI official to seek sensitive records such as libraries, medical, educational and gun records.

Delayed Notice ("Sneak and Peak") Search Warrants

- 6) Requires notice given to target within 30 days, with extensions of up to 90 days.

Roving Wiretaps

- 7) Requires application and order to include the identity, or if identity is unknown, a description of the specific target.

National Security Letters (NSL)

- 8) Establishes explicit right of recipients to consult with an attorney.
- 9) Establishes explicit judicial review of the order.
- 10) Establishes explicit judicial review of the non-disclosure ('gag') order.

Sunsets

- 11) Establishes 7 yr. sunsets for sec. 215, roving wiretaps, and lone wolf terrorist provisions.

Congressional and Public Reporting

- 12) Requires extensive Congressional and public reporting on the use of section 215, delayed notice searches, roving wiretaps, NSL's and other PATRIOT provisions.
- 13) Requires extensive audits on use of section 215 and NSL orders by the DoJ IG.

Revised Conference Report-December 8, 2005

National Security Letters

- 14) Removes from the draft conference report the provision making disclosure of an NSL a crime even though there was no intent to break the law.

Sunsets

- 15) Reduces sunsets from 7 years to 4 years for section 215, roving wiretaps, and lone wolf terrorist provisions.

Post-Cloture Vote-December 16, 2005 to present

Section 215 Orders

- 16) Establishes explicit judicial review of non-disclosure ('gag') order.

Disclosure of Counsel

- 17) Removes from the conference report the requirement that a person provide the FBI with the name of an attorney consulted regarding an NSL.

NSL's

- 18) Clarifies current law to ensure that libraries, when functioning in their traditional roles, including providing Internet access, are NOT subject to NSL's.